

No. 15977 ✓

United States
Court of Appeals
for the Ninth Circuit

WILLIAM ALEX KARIAKIN,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

Appeal from the United States District Court for the
Southern District of California
Central Division

FILE

MAY 20 1958

PAUL P. O'BRIEN, C

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

LIONEL RICHMAN,
1250 Wilshire Boulevard,
Los Angeles 17, California.

For Appellee:

LAUGHLIN E. WATERS,
United States Attorney;

LLOYD F. DUNN,
Asst. U. S. Atty., Chief Criminal Division;

THOMAS R. SHERIDAN,
Assistant U. S. Attorney,
600 Federal Building,
Los Angeles 12, California.

United States District Court for the Southern
District of California, Central Division

No. 26241—CD

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM ALEX KARIAKIN,

Defendant.

INDICTMENT

[U.S.C., Title 50, App., Sec. 462—Universal Military Training and Service Act]

September, 1957—Grand Jury

The grand jury charges:

Defendant William Alex Kariakin, a male person within the class made subject to selective service under the Universal Military Training and Service Act, registered as required by said Act and the regulations promulgated thereunder and thereafter became a registrant of Local Board No. 113, said Board being then and there duly created and acting, under the Selective Service System established by said Act, in Los Angeles County, California; pursuant to said Act and the regulations promulgated thereunder, the defendant was classified in Class 1-A and was notified of said classification; thereafter, a notice and order by said Board was duly given to the defendant to report for induction into the armed forces of the United States of America

on October 4, 1956, and at said time, in Los Angeles County, California, within the Central Division of the Southern District of California, the defendant did knowingly fail and neglect to perform a duty required of him under said Act and the regulations promulgated thereunder in that he then and there knowingly failed and neglected to report for induction into the armed forces of the United States as so notified and ordered to do.

A True Bill.

/s/ E. J. PRUD'HOMME,
Foreman.

/s/ LAUGHLIN E. WATERS,
United States Attorney.

Bond fixed in the amount of

[Endorsed]: Filed October 2, 1957.

United States District Court for the Southern
District of California, Central Division
No. 26241—Criminal

UNITED STATES OF AMERICA,

vs.

WILLIAM ALEX KARIAKIN.

JUDGMENT AND COMMITMENT

On this 10th day of February, 1958, came the attorney for the government and the defendant appeared in person and by counsel, Lionel Richman.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and finding of guilty of the offense of knowingly failing and neglecting to report for induction into the armed forces of the United States of America on October 4, 1956, as charged in the Indictment and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of three years.

It Is Adjudged that execution of judgment is stayed until February 17, 1958, 10:00 a.m.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ HARRY C. WESTOVER,
United States District Judge.

[Endorsed]: Filed February 10, 1958.

[Title of District Court and Cause.]

NOTICE OF APPEAL

William Alex Kariakin, 235 South Simmons Avenue, Montebello, California, Appellant;

Lewis Garrett & Lionel Richman, 1250 Wilshire Boulevard, Los Angeles 17, California, Attorneys for Appellant;

Offense: U.S.C., Title 50, App., Sec. 462, Universal Military Training and Service Act.

On February 10, 1958, appellant was sentenced to three years in prison. He is now on bail pending this appeal.

The above-named appellant hereby appeals to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated: February 12, 1958.

LEWIS GARRETT &
LIONEL RICHMAN,

By /s/ LIONEL RICHMAN,
Attorneys for Defendant and
Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed February 13, 1958.

[Title of District Court and Cause.]

APPLICATION FOR ORDER EXTENDING
TIME TO FILE AND DOCKET RECORD
ON APPEAL

State of California,
County of Los Angeles—ss.

The application and affidavit of Lionel Richman respectfully shows:

1. Affiant is attorney of record for appellant herein and duly filed a Notice of Appeal in this cause.

2. Immediately thereafter affiant became involved in the defense of two injunction proceedings in the Superior Court of the State of California in and for the County of Riverside, said proceedings being heard at the court in Indio, California. Said proceedings are entitled, Palm Springs S & S Corp. v. Culinary Workers, etc., Union, case No. Indio 1779, and The Racquet Club v. Culinary Workers, etc., Union, Local No. 535, case No. Indio 1803.

3. That your affiant has devoted all of affiant's time to these proceedings from their inception until March 25, 1958, when said matters were submitted to the court for decision.

Wherefore, your affiant respectfully prays for an order of this Honorable Court extending the time in which the Record on Appeal may be filed and

docketed in the appellate court for an additional period of forty days.

/s/ LIONEL RICHMAN.

Subscribed and sworn to before me this 28th day of March, 1958.

/s/ MARGARET E. NEIL,
Notary Public in and for Said
County and State.

Order

Upon reading and filing the application of Lionel Richman and good cause appearing therefor, it is ordered that the time to file and docket the record on appeal in the appellate court be and it is extended forty days from March 25, 1958.

Dated: 3-28-1958.

/s/ HARRY C. WESTOVER,
Judge, U. S. District Court.

[Endorsed]: Filed March 28, 1958.

[Title of District Court and Cause.]

CERTIFICATE BY CLERK

I, John A. Childress, Clerk of the above-entitled Court, hereby certify that the items listed below constitute the transcript of record on appeal to the

United States Court of Appeals for the Ninth Circuit, in the above-entitled cause:

A. The foregoing pages numbered 1 to 10, inclusive, containing the original:

Indictment.

Judgment.

Notice of Appeal.

Designation of Record on Appeal.

Application for Order extending time to file and docket record on Appeal and Order thereon.

B. Plaintiff's Exhibit No. 1.

I further certify that my fee for preparing the foregoing record, amounting to \$1.60, has been paid by appellant.

Dated: April 7, 1958.

JOHN A. CHILDRESS,
Clerk;

By /s/ WM. A. WHITE,
Deputy Clerk.

[Title of District Court and Cause.]

STATEMENT OF DOCKET ENTRIES

1. Indictment for viol. 50-462—Universal Military Training and Service Act, filed October 2, 1957.
2. Arraignment, October 21, 1957.
3. Plea to indictment, Not Guilty, October 21, 1957.

4. Motion to withdraw plea of guilty denied,
....., 1957.

5. Trial by court if jury waived, December 27,
1957.

6. Finding of guilty, January 27, 1958.

7. Judgment—(with terms of sentence or order,
3 yrs. impris., Entered February 11, 1958.

8. Notice of appeal filed, February 13, 1958.

[Seal] JOHN A. CHILDRESS,
 Clerk;

By /s/ JOHN F. MAHER,
 Deputy Clerk.

[Endorsed]: Filed February 17, 1958.

[Endorsed]: No. 15977. United States Court of
Appeals for the Ninth Circuit. William Alex
Kariakin, Appellant, vs. United States of America,
Appellee. Transcript of Record. Appeal from the
United States District Court for the Southern Dis-
trict of California, Central Division.

Filed April 9, 1958.

Docketed April 11, 1958.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

United States Court of Appeals
for the Ninth Circuit

No. 15,977

WILLIAM ALEX KARIAKIN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS BY APPELLANT

To the Honorable United States Court of Appeals
for the Ninth Circuit:

Appellant submits herewith a statement of the
points on which he intends to rely:

1. The evidence was insufficient to sustain the
judgment of conviction.

2. The local board inferentially set aside the
classification of appellant and waived his failure
to report.

3. The local board deprived appellant of due proc-
ess of law by its failure to reclassify him on or after
October 11, 1956.

Dated this 9th day of May, 1958.

LEWIS GARRETT &
LIONEL RICHMAN

By /s/ LIONEL RICHMAN,
Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed May 12, 1958.

